

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>JERRY FOXHOVEN,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>KIM REYNOLDS, SAM LANGHOLZ, SARA GONGOL AND STATE OF IOWA,</p> <p style="text-align: center;">Defendants.</p>	<p>CASE NO.</p> <p style="text-align: center;">PETITION AT LAW</p>
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PARTIES

1. At all times material hereto, Claimant Jerry Foxhoven ("Foxhoven") was a resident of Clive, Polk County, Iowa.
2. At all times material hereto, Defendant State of Iowa was a sovereign state as defined in the Iowa Code with its principal place of business in Des Moines, Polk County, Iowa.
3. At all times material hereto, Sara Craig Gongol ("Gongol") was a resident of Polk County and the chief of staff to Governor Kim Reynolds.
4. At all times material hereto, Sam Langholz ("Langholz") was senior legal counsel to Governor Kim Reynolds.
5. At all times material hereto, Kim Reynolds was the Governor of the State of Iowa.

FACTUAL BACKGROUND

6. On June 17, 2017, Foxhoven was appointed by Governor Reynolds to serve as the Director of the Iowa Department of Human Services ("DHS").
7. On November 17, 2017, Mike Randol ("Randol") was appointed as the Director of the Iowa Medicaid Enterprise ("IME").
8. Randol transitioned to Director of the IME from his post with the Kansas Department of Health and Environment, where he served as the State Medicaid Director.

9. At the time Randol began as Director of the IME he possessed a comprehensive understanding of Medicaid and managed care, but was not familiar with Iowa's insurance companies, hospitals and various health care providers.

10. Foxhoven, in consultation with Governor Reynolds' staff, agreed that Deputy Chief of Staff Paige Thorson ("Thorson") could provide valuable assistance to Randol during the State's transition to a managed care system.

11. On February 2, 2018, Foxhoven and Jake Ketzner (then Governor Reynolds Chief of Staff) executed a Memorandum of Understanding ("MOU) which stated that Thorson "shall provide strategic support for the Department as agreed to by each Office of the Governor and the Department."

12. The MOU executed on February 2, 2018 provided that DHS would be invoiced based on 69% of Thorson's combined salary and benefit costs from December 26, 2017 to June 30, 2018.

13. On December 3, 2018, Foxhoven and Ryan Koopmans (then Governor Reynolds Chief of Staff) signed a second MOU which again provided that Thorson "shall provide strategic support for the Department as agreed to by each Office of the Governor and the Department."

14. The MOU executed by Foxhoven on December 3, 2018 provided that DHS would be invoiced based on 69% of Thorson's combined salary and benefit costs from July 1, 2018 to June 30, 2018.

15. In February/March 2019, as fiscal year 2019 drew to a close, Foxhoven had a telephone conversation with Chief of Staff Gongol about Thorson's future role at DHS.

16. During this phone conversation, Foxhoven told Gongol that because of Thorson's support during the last two fiscal years that Randol was now adequately familiar with Iowa's health care network.

17. Foxhoven also told Gongol during their phone conversation that Thorson was no longer performing duties that furthered the mission of Iowa Medicaid and that he did not believe DHS could legally divert federal Medicaid dollars to pay her salary.

18. Foxhoven believed that the issue was resolved when the Iowa legislature appropriated an additional \$200,000 in DHS funding for two new positions.

19. At the beginning of June 2019 Foxhoven spoke with Gongol hoping to confirm that DHS would not continue paying any portion of the Thorson's salary with Medicaid funds in the next fiscal year.

20. Gongol told Foxhoven that she was expecting DHS to continue paying a portion of Thorson's salary. Foxhoven questioned the legality of such an arrangement because Thorson was no longer performing duties relating to Iowa Medicaid, but instead simply acting as Governor Reynolds Deputy Chief of Staff.

21. Foxhoven requested that Gongol ask Langholz for his opinion concerning the legality of diverting federal Medicaid funds to pay Thorson's salary. Gongol refused stating that she was not going to involve Langholz in the matter.

22. Foxhoven told Gongol that he intended to ask the assistant attorney generals assigned to DHS for a legal opinion. Foxhoven explained that all three assistant attorney generals were involved in a multi-week federal court lawsuit and that the trial would conclude on June 18, 2019.

23. Foxhoven told Gongol that he was going to send an email to the assistant attorney generals assigned to DHS on June 18, 2019 requesting a legal opinion concerning the legality of diverting federal Medicaid funds to pay Thorson's salary when she was no longer performing any duties relating to Medicaid or otherwise furthering the mission of DHS.

24. On June 17, 2019, Gongol and Langholz terminated Foxhoven before he could send the email requesting a legal opinion concerning the legality of diverting federal Medicaid funds to pay Thorson's salary when she was no longer performing any duties relating to Medicaid or otherwise furthering the mission of DHS.

25. Foxhoven was given no reason for his sudden and immediate termination other than stating that "we're going in a different direction."

26. Gongol and Langholz demanded the immediate return of all of Foxhoven's state issued equipment and told him not to return to his office.

27. After Foxhoven was terminated, DHS was refunded two salary payments made to Thorson in April 2019 and May 2019.

WRONGFUL DISCHARGE IN VIOLATION OF PUBLIC POLICY

COMES NOW the Plaintiff Jerry Foxhoven and for his cause of action against Defendants State of Iowa, Gongol, Langholz and Reynolds states as follows:

28. Foxhoven realleges and incorporates by reference the allegations contained in paragraphs 1 through 27 as if fully set forth herein.

29. Defendants, and each of them, terminated Foxhoven in order to prevent him from enforcing his statutory right to disclose information he reasonably and in good faith believed constituted a violation of the law, mismanagement, a gross abuse of funds or abuse of authority under and pursuant to Iowa Code §70A.28(1).

30. Defendants, and each of them, terminated Foxhoven in order to prevent him from disclosing information he reasonably and in good faith believed constituted a violation of the law, mismanagement, a gross abuse of funds or abuse of authority under and pursuant to Iowa Code §70A.28(2).

31. Defendants, and each of them, terminated Foxhoven because he refused to engage in illegal activity; that is committing Medicaid fraud and misuse of federal monies by continuing to pay Thorson's salary despite the fact that she was no longer providing any duties relating to Medicaid or otherwise furthering the mission of DHS all in violation of Iowa Code §8.38.

32. Defendants, and each of them, terminated Foxhoven by interfering with and preventing him from consulting with or seeking advice from the Iowa Attorney General's office concerning the legality of diverting federal Medicaid funds to pay Thorson's salary when she was no longer performing any duties relating to Medicaid or otherwise furthering the mission of DHS.

33. Foxhoven's termination violates well established public policy of the State of Iowa as defined by statute, regulation, and judicial decision. Said public policy is undermined and jeopardized by the circumstances of this case.

34. As a proximate cause of Defendants' termination of Foxhoven's employment, he has suffered and will continue to suffer substantial loss of earnings, insurance benefits, retirement benefits and other employee benefits; and has suffered and will continue to suffer emotional distress and damage to his reputation.

35. Defendants' termination of Foxhoven's employment was willful and wanton and done in reckless disregard of his rights, entitling him to exemplary and punitive damages against the individual defendants.

WHEREFORE, Plaintiff Jerry Foxhoven requests judgement against Defendants, and each of them, in such an amount as will fully and fairly compensate him for his damages, for punitive damages against the individual defendants, for attorney fees and costs, for interest as allowed by law, for reinstatement, backpay, and for such other and further relief, including but not limited to front pay, as the court deems equitable on the premises including injunctive and declaratory relief.

/s/ Thomas J. Duff

Thomas J. Duff

/s/ Jim Duff

Jim T. Duff

DUFF LAW FIRM, PLC

The Galleria

4090 Westown Pkwy, Suite 102

West Des Moines, Iowa 50266

Telephone: (515) 224-4999

Fax: (515) 327-5401

Emails : tom@tdufflaw.com

Jim@tdufflaw.com

Wendy@tdufflaw.com

ATTORNEYS FOR PLAINTIFFS

Original electronically filed.